

**UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
GREENVILLE DIVISION**

IN RE:
CLYDE W. EVERETTE, JR.
DEBTOR

CASE NO.:
15-01873-5-JNC
CHAPTER 13

MOTION TO MODIFY CHAPTER 13 PLAN

NOW COMES the above named debtor by and through the undersigned counsel pursuant to 11 U.S.C. §1329(a)(1) and hereby moves the Court to modify the Chapter 13 Plan and shows unto the Court:

JURISDICTION:

1. This matter is a core proceeding pursuant to 28 U.S.C. §157, and the court has jurisdiction pursuant to 28 U.S.C. §§151 and 1334.
2. The Court has the authority to hear this matter pursuant to the General Order of Reference entered August 3, 1984 by the United States District Court for the Eastern District of North Carolina.
3. This motion is filed and served pursuant to Rule 9014 of the Federal Rules of Bankruptcy Procedure and 11 U.S.C. §1329(a)(1).

FACTS:

4. The Debtor filed this Chapter 13 case on April 2, 2015, in the Eastern District of North Carolina, Greenville Division.
5. On April 2, 2015, the Debtor filed a Chapter 13 Plan proposing a plan of \$1,541.00 per month for 60 months. The plan also proposed to pay the mortgage claim to Caliber Home Loans as a conduit mortgage through the Chapter 13 Plan.
6. On May 21, 2015 the Trustee filed the Minutes of 341 Meeting and Motion for Confirmation of Plan, proposing a plan of \$1,541.00 for 60 months, and proposing to pay Caliber Home Loans through the plan should a claim be timely filed. The Trustee determined that the general unsecured class would not receive a dividend in the case.
7. On January 6, 2017, the Court entered an Order granting the Minutes of 341 Meeting and Motion for Confirmation of Plan, confirming the plan of \$1,541.00 for 60 months.
8. Caliber Home Loans has granted the debtor a mortgage modification which would defer arrears and lower the monthly payment. Debtor has filed a Motion to Modify Mortgage.

REQUEST FOR MODIFICATION:

9. The mortgage modification is an unanticipated change in the case, such that modification of the plan of reorganization is appropriate.

10. This Motion does not have an adverse effect on the unsecured class; and as such, notice is not required to be sent to the unsecured creditor class.

11. The debtor hereby requests that her Chapter 13 Plan be modified as follows:

FROM: \$1,541.00 for 60 months

TO: \$1,541.00 for 60 months then \$280.00 per month for 37 months beginning in March, 2017.

12. It is in the best interest of the bankruptcy estate to modify the plan as requested.

13. The attorney for Debtor shall be allowed additional attorney fees of \$450.00 in connection with this Motion. Said attorney fees shall be paid through the Chapter 13 Plan and the Trustee should be directed to amend and modify the Plan to accommodate this claim.

WHEREFORE, the debtor hereby prays the Court to grant the following relief:

1. Allow the modification of the Debtor's Plan as requested to allow the Plan to be modified as follows:

FROM: \$1,541.00 for 60 months

TO: \$1,541.00 for 60 months then \$280.00 per month for 37 months beginning in March, 2017.

2. Allow attorney fees to the attorney for Debtor in the amount of \$450.00 in connection with this Motion and enter an Order allowing the additional attorney fees to be paid through the Chapter 13 and allowing the Trustee to amend and modify the Plan to accommodate this claim.

3. To grant such other relief as the Court deems just and proper.

This the 10th day of February, 2017.

SOSNA LAW OFFICES, PLLC

By: s/Michael B. Sosna

Michael B. Sosna
NC Bar No.: 8596
3031 Zebulon Road
Rocky Mount, NC 27804
(252) 937-3027

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NOTICE OF MOTION TO MODIFY PLAN

Debtor has filed papers with the Court to modify his Chapter 13 Plan.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)

If you do not want the court to grant the relief sought in motion, or if you want the court to consider your views on the motion, then on or before March 6, 2017, unless otherwise ordered, you or your attorney must file with the court, pursuant to Local Rule 9013-1 and 9014-1, a written response, an answer explaining your position, and a request for hearing at: U.S. Bankruptcy Court, P. O. Box 791, Raleigh, NC 27602.

If you mail your response to the court for filing, you must mail it early enough so the court will **receive** it on or before the date stated above.

You must also mail a copy to:

Michael B. Sosna
3031 Zebulon Road
Rocky Mount, NC 27804

Joseph A. Bledsoe, III
Chapter 13 Trustee
P. O. Box 1618
New Bern, NC 28563

If a response and a request for hearing is filed in writing on or before the date set above, a hearing will be conducted on the motion at a date, time and place to be later set and all parties will be notified accordingly.

If you or your attorney do not take these steps, the court may decide that you do not oppose the relief sought in the motion or objection and may enter an order granting that relief.

This the 10th day of February, 2017

SOSNA LAW OFFICES, PLLC

By: s/Michael B. Sosna
Michael B. Sosna
3031 Zebulon Road
Rocky Mount, NC 27804

CERTIFICATE OF SERVICE

I, Michael B. Sosna, Sosna Law Offices, PLLC, 3031 Zebulon Road, Rocky Mount, NC 27804, certify:

That I am, and at all times hereinafter mentioned was, more than eighteen (18) years of age:

That on February 10, 2017, I mailed a copy of the Motion to Modify and Notice filed herein, by depositing copies thereof in the United States mail, first class mail, postage prepaid, in an envelope addressed as shown below.

I certify under penalty of perjury that the foregoing is true and correct.

Dated: February 10, 2017

SOSNA LAW OFFICES, PLLC

By: s/Michael B. Sosna

Michael B. Sosna
Attorney for Debtors
NC Bar No.: 8596
3031 Zebulon Road
Rocky Mount, NC 27804

SERVED ON:

Clyde W. Everette, Jr.
414 East Troy Street
Ahoskie, NC 27910

Joseph A. Bledsoe, III
P. O. Box 1618
New Bern, NC 28563

Caliber Home Loans
Attention: Officer/Managing Agent
13801 Wireless Way
Oklahoma City, OK 73134